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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/542,010

04/24/2006

Jun Fujita

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25944 7590 05/14/2008

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EXAMINER

GUGLIOTTA, NICOLE T

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

05/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/542,010	Applicant(s) FUJITA ET AL.	
	Examiner NICOLE T. GUGLIOTTA	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 - 7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/11/2005, 5/8/2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

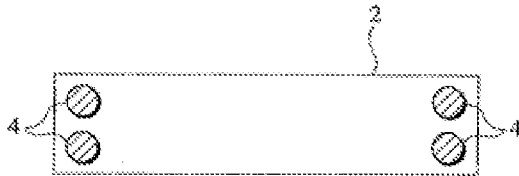
A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

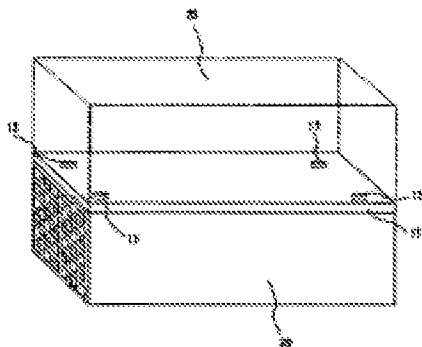
2. Claims 1 – 4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Norihiko (JP 2002-102627, English equivalent provided by applicant).

3. APPLICANT'S INVENTION



4.

5. PRIOR ART (Norihiko)



6.

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7. In regard to claim 1, Norihiko discloses in the ceramic structure 10 (corresponds to applicant's "ceramic honeycomb"), two or more porosity ceramic members 20 (corresponds to applicant's "honeycomb segments") have banded together through the glue line 11 (corresponds to applicant's "adhesive layer"), two or more spacing material 13 (corresponds to applicant's "protrusion portion") as shown in drawing 3 is formed into this glue line 11, and it is pinched by the porosity ceramic member 20. Moreover, coating of the sealant 12 is carried out to the whole periphery section of the porosity ceramic member 20 which banded together through this glue line 11 and the spacing material 13 (Section [0020]).

8. In regard to claims 2 and 7, Norihiko discloses the spacing material construction material is not especially limited, for example may be paper, mineral matter, a ceramic, organic fiber, and resin (Section [0022]).

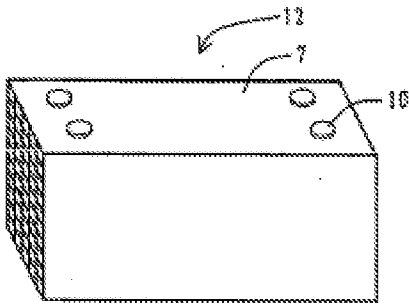
9. In regard to claim 3, Norihiko discloses when the spacing material is cylindrical, the desirable thickness is 0.8 - 1.2 mm (Section [0024]) and the thickness of the glue line is 0.6 – 1.2 mm or 0.3 – 1.6 (poor machine translation) (Section [0071]).

10. In regard to claim 4, Norihiko discloses after laying spacing material and fixing on this glue line 61, the laminating of other porosity ceramic members 20 is carried out on this spacing material and will be pinched by the up-and—own porosity ceramic member (corresponds to applicant's "pressing the two honeycomb segments against each other" (Sections [0036], [0051] and Drawings 3 and 7).

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11. Claims 1- 7 are rejected under 35 U.S.C. 102(a) as being anticipated by Fujita et al. (WO 03/31371 A1 (Examiner has used US 2004/0108056 A1 as English equivalent until a translation is attained).

12. PRIOR ART (Fujita et al.)



13.

14. In regard to claim 1, Fujita et al. disclose a honeycomb structure obtained by bonding, into one piece, a plurality of honeycomb segments each having numbers of through-holes surrounded by partition walls and extending in the axial direction, characterized in that a spacer (corresponds to applicant's "protruding portion" is interposed between the honeycomb segments (Section [0007]).

15. In regard to claims 2 and 7, Fujita et al. disclose there is no particular restriction as to the material for the spacer 10. The material can be an organic material or an inorganic material (Section [0028]).

16. In regard to claim 3, Tables 1 – 3 of Fujita et al. disclose the thickness of the adhesive layers with the spacers to range from 0.78 – 1.01 mm. The thicknesses of the spacers are preferably 0.1 to 3.0 mm (Section [0007]).

17. In regard claim 4, Fujita et al. disclose the preferred step of bonding honeycomb segments into one piece comprises forming spacers 10 on a surface 7, which is to be

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adhered, of a honeycomb segment 12 as shown in, for example Fig. 7, applying an adhesive material 13 as shown in Fig. 8, and bonding at least two honeycomb segments 12 as shown in Fig. 9 (Section 0045]). Examples 1 and 2 disclose that the honeycomb segments were pressed bonded and then dried (Sections [0059] & [0064])

18. In regard to claims 5 and 6, Figure 7 of Fujita et al. disclose the spacers fixed on one adhesion surface and the other adhesion surface flat. However, Fujita et al. disclose the spacer-forming agent may be placed on either of two surfaces, which come to face each other via an adhesive layer, but may be placed on both surfaces. There is no particular restriction as to the amount, positions and number of the spacer forming agent placed (Section [0049]).

Double Patenting

19. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

20. Claims 1 - 4 and 7 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 - 7 of copending Application No. 10/432,983. Although the conflicting claims are not identical, they are not patentably distinct from each other because both application claims a protrusion/spacer adhered to the adhesion surface of a honeycomb segment, covered with an adhering layer, and then pressed together.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

21. Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 4 of copending Application No. 10/535,096. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim a spacer position between neighboring honeycomb segments of a honeycomb structure, a bonding layer where the spacer is positioned, and the spacer is formed of ceramics (inorganic material).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICOLE T. GUGLIOTTA whose telephone number is (571)270-1552. The examiner can normally be reached on M - Th 8:30 - 6 p.m., & every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NICOLE T. GUGLIOTTA
Examiner
Art Unit 1794

/Carol Chaney/
Supervisory Patent Examiner, Art Unit 1794